

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

WILLIAM E. DUGAN, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION
vs.	)	
	)	NO. 08 C 0641
KEVIN MISCH TRUCKING	)	
& EXCAVATING, INC., an Indiana	)	JUDGE RUBEN CASTILLO
corporation,	)	
	)	
Defendant.	)	

**AFFIDAVIT**

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF COOK        )

CATHERINE M. CHAPMAN, being first duly sworn upon her oath, deposes and states:

1. I am one of the attorneys for the Plaintiffs in the above-entitled action, I have personal knowledge of the facts regarding this matter and the time expended in the prosecution of this action now pending in the United States District Court and, if called as a witness, I am competent to testify in respect thereto.

2. I and my associates have expended four and one-quarter hours in the prosecution of the above-entitled action, including the initial investigation and preparation of the Complaint, telephone conversations with the Plaintiff Funds, Jasper County Sheriff's Department and Plaintiffs' process server, and preparation of correspondence to the Defendant.

3. I have in my possession a complete written record of the hours expended and costs incurred in the prosecution of this action in the form of client billing records which specify the various activities of Counsel required in the litigation of this matter and confirms the number of hours expended and costs incurred as set forth above.

4. The usual and normal hourly charges by Affiant's law firm for Federal Court litigation under the Labor-Management Relations Act and the Employee Retirement Income Security Act of 1974 range from \$140.00 to \$180.00 per hour for associates and from \$210.00 to \$290.00 per hour for partners based on their level of experience.

5. To the best of my knowledge and belief, the rates charged per hour are less than or equal to the usual and customary rates charged by other law firms doing similar work in the United States District Court for the Northern District of Illinois.

6. Plaintiffs have incurred costs related to the prosecution of this action consisting of \$350.00 for their court filing fee and \$65.00 to serve Defendant with the summons and complaint.

7. Section 502(g)(2) of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Section 1132(g)(2) provides that the Court must award a Plaintiff its costs and reasonable attorneys' fees:

In any action under this title by a fiduciary for or on behalf of a plan to enforce Section 515 in which a judgment in favor of the plan is awarded, the Court shall award the plan...(D) reasonable attorneys' fees and costs of the action, to be paid by the defendant....

8. Furthermore, the Trust Agreements governing the Funds, and to which Defendant is bound, provide for payment by the Defendant of all costs of collection, including audit and attorneys' fees incurred by the Plaintiffs.

9. I make this Affidavit in support of the Plaintiffs' Motion for Entry of Default and Judgment and an award of Plaintiffs' costs totaling \$415.00 and Plaintiffs' reasonable attorneys' fees in the sum of \$588.75.

FURTHER AFFIANT SAYETH NOT.

/s/ Catherine M. Chapman

SUBSCRIBED AND SWORN  
TO before me this 31st  
day of March 2008.

/s/ Deborah A. Farrell

NOTARY PUBLIC

I:\MOEJ\Kevin Misch\chapman affidavit.cms.df.wpd

**CERTIFICATE OF SERVICE**

The undersigned, an attorney of record, hereby certifies that she electronically filed the foregoing document (Affidavit of Catherine M. Chapman) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participant on or before the hour of 5:00 p.m. this 31st day of March 2008:

Mr. Kevin Misch, Registered Agent  
Kevin Misch Trucking & Excavating, Inc.  
2025 Cardinal Drive  
Wheatfield, IN 46392

Mr. Kevin Misch, Registered Agent  
Kevin Misch Trucking & Excavating, Inc.  
2447 W 1450 N  
Wheatfield, IN 46392

/s/ Cecilia M. Scanlon \_\_\_\_\_

Cecilia M. Scanlon  
Attorney for Plaintiffs  
BAUM SIGMAN AUERBACH & NEUMAN, LTD.  
200 West Adams Street, Suite 2200  
Chicago, IL 60606-5231  
Bar No.: 6288574  
Telephone: (312) 236-4316  
Facsimile: (312) 236-0241  
E-Mail: [cscanlon@baumsigman.com](mailto:cscanlon@baumsigman.com)